

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

File No. 0:10-cv-2089 (MJD/SRN)

Michael P. Kabarec, as Trustee under the
Michael P. Kabarec Declaration of Trust
dated June 29, 1988,

Plaintiff,

v.

ORDER

Mesa Financial Advisors, Inc., a Minnesota
corporation, and Mesa Holdings, Inc., a
Minnesota corporation,

Defendants.

And

Stark & Stark, P.C., a New Jersey
professional corporation

Nominal Defendant/Escrowee.

The above-captioned matter came on for hearing on December 17, 2010 before The Honorable Judge Michael J. Davis with respect to Plaintiff's Motion for Default Judgment. Brent A. Lorentz of Winthrop & Weinstine, P.A., appeared on behalf of Plaintiff. Appearances, if any, on behalf of Mesa Financial Advisors, Inc. ("MFA") and Mesa Holdings, Inc., ("Mesa Holdings") were noted on the record. Based upon the file, records, and proceedings herein, the Court makes the following Findings, Order and Judgment:

FINDINGS

1. Plaintiff commenced this action on May 20, 2010, by service of its Summons and Complaint on MFA and Mesa Holdings.

2. MFA and Mesa Holdings failed to answer or otherwise respond to Plaintiff's Complaint within the time allotted, and to date have not served or filed an answer or other response to Plaintiff's Complaint.

3. The facts alleged in Plaintiff's Complaint are taken as true, and Plaintiff is entitled to default judgment against MFA and Mesa Holdings for the relief requested in the Complaint.

4. Accordingly, judgment shall be entered at this time and it is declared that MFA and Mesa Holdings breached the October 8, 2008 Stock Purchase Agreement; the October 1, 2008 Promissory Note; the October 1, 2008 Term Promissory Note, and the October 1, 2008 Zero Coupon Note. By virtue of MFA's and Mesa Holdings' breaches, MFA and Mesa Holdings are jointly and severally liable to Plaintiff in the principal amount of \$1,841,506.00. As of December 17, 2010, MFA and Mesa Holdings also are jointly and severally liable for accrued interest under the Term Promissory Note and the Promissory Note in the amount of \$164,704.00. Accordingly, as of December 17, 2010, the total amount owed to Plaintiff will be \$2,006,210.00.

5. Further, given MFA's and Mesa Holdings' breaches, MFA and Mesa Holdings are not entitled to any further compensation under the parties' contracts, including but not limited to further revenue payments under the Stock Purchase Agreement.

ORDER

1. Based on the preceding Findings, MFA's and Mesa Holdings' failure to answer or otherwise respond to Plaintiff's Complaint constitutes a default.

2. Pursuant to FED. R. CIV. P. 12 and 55, Plaintiff is entitled to default judgment against MFA and Mesa Holdings for the relief requested in Plaintiff's Complaint, and, more specifically, it is declared that MFA and Mesa Holdings breached the Note, the Term Note and the Zero Coupon Note.

3. The Court hereby orders that default judgment be entered in favor of Plaintiff and against MFA and Mesa Holdings declaring that MFA and Mesa Holdings are jointly and severally liable to Plaintiff in the principle amount of \$1,841,506.00, plus accrued interest of \$164,704.00, for a total of \$2,006,210.00.

4. Plaintiff's claims against MFA and Mesa Holdings for Violation of Minnesota Statutes §302A.461, Involuntary Dissolution of Mesa Holdings pursuant to Minn. Stat. §302A.751, and Appointment of a Receiver over Mesa Holdings pursuant to Minn. Stat. §576.01 are dismissed without prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT

Dated this 21st day of December, 2010

s/ Michael J. Davis
Michael J. Davis
United States District Court Judge

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